

§ 105-163.5. Employee withholding allowances; certificates.

(a) An employee receiving wages is entitled to the withholding allowances that would result in the employer withholding approximately the employee's income tax liability under Article 4 of this Chapter.

(b) Every employee shall, at the time of commencing employment, furnish his or her employer with a signed withholding allowance certificate informing the employer of the allowances the employee claims. If the employee fails to file the allowance certificate, the employer must compute the amount to be withheld from the employee's wages as if the employee were a single individual with no allowances.

(c) Withholding allowance certificates shall take effect as of the beginning of the first payroll period that ends on or after the date on which the certificate is furnished, or if payment of wages is made without regard to a payroll period, then the certificate shall take effect as of the beginning of the miscellaneous payroll period for which the first payment of wages is made on or after the date on which the certificate is furnished.

(d) If, on any day during the calendar year, the amount of withholding allowances to which the employee is entitled is less than the amount of withholding allowances claimed by the employee on the withholding allowance certificate then in effect with respect to the employee, the employee shall, within 10 days thereafter, furnish the employer with a new withholding allowance certificate stating the amount of withholding allowances which the employee then claims, which shall in no event exceed the amount to which the employee is entitled on that day. If, on any day during the calendar year, the amount of withholding allowances to which the employee is entitled is greater than the amount of withholding allowances claimed, the employee may furnish the employer with a new withholding allowance certificate stating the amount of withholding allowances that the employee then claims, which shall not exceed the amount to which the employee is entitled on that day.

(e) Withholding allowance certificates must be in the form and contain the information required by the Secretary.

(f) In addition to any criminal penalty provided by law, if an individual furnishes his or her employer an allowance certificate that contains information that has no reasonable basis and that results in a lesser amount of tax being withheld under this Article than would have been withheld if the individual had furnished reasonable information, the individual is subject to a penalty of fifty percent (50%) of the amount not properly withheld. (1959, c. 1259, s. 1; 1973, c. 476, s. 193; 1981 (Reg. Sess., 1982), c. 1277; 1989, c. 728, s. 1.43; 1997-109, s. 2; 2014-3, s. 14.5(b).)